

Remarks

Status of the Application

Prior to entry of this amendment, claims 1, 3, 4, 9, 10, 12-14, 17, 18, 21, and 22 were pending. The Office Action mailed May 4, 2010 rejected claims 1, 3, 4, 13, 14, 17, and 18 under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 7,603,683 to Reto ("Reto") in view of U.S. Patent App. Pub. No. 2002/0188777 to Kraft et al. ("Kraft"), rejected claims 9, 21, and 22 under § 103(a) as being unpatentable over Reto and Kraft, in view of U.S. Patent No. 6,731,308 to Tang et al. ("Tang"), rejected claim 10 under § 103(a) as being unpatentable over Reto, Kraft, and Tang in view of U.S. Patent No. 6,757,365 to Bogard ("Bogard"), and rejected claim 12 under § 103(a) as being unpatentable over Reto and Kraft, in view of Bogard.

No claims have been amended, added or canceled. Hence, after entry of this paper, claims 1, 3, 4, 9, 10, 12-14, 17, 18, 21, and 22 will remain pending for examination. Claim 1 is the only independent claim.

Rejections under 35 U.S.C. § 103

Claims 1, 3, 4, 13, 14, 17, and 18

Claims 1, 3, 4, 13, 14, 17, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Reto and Kraft. These rejections are respectfully traversed, because the final Office Action has not demonstrated that the cited combination either teaches or suggests each element of any rejected claim.

For example, independent claim 1 recites, inter alia, "a separate survey server in communication with the IM server for receiving and storing instant messaging content from each of the users, the instant messaging content comprising IM messages sent among the users and a program ID associated with each of the sent IM messages, the program ID identifying the broadcast television program being viewed by each user" (emphasis added). Claim 1 also recites, "the survey server for generating reports on the tracked programming activity that include data from the aggregated IM content." The combination of Reto and Kraft teaches neither of these features.

The Office Action asserts,

Reto also teaches the client device sends the instant messaging content (i.e. a request to the server 5); including instant messages sent from the users (i.e. includes the client device identification number of the client device that corresponds to the target plate 60, the client device identification number of the sender client device, the information identifying the present user, icon identification data, and present content data includes the television channel (a program ID) associated with each of the sent instant messages), (i.e. The icon identification data designates an invitation icon, and the present content data includes the television channel and the frame number of the television program presently being viewed at the sender client device

Office Action at 4 (citing Reto, col. 17 lines 11-39, col. 22 lines 52-55).

The cited portions of Reto, however, do not support this interpretation. The first passage, from column 17 of Reto, describes how an invitation is sent from a client device, through a server, to another client device. Of particular relevance, the cited passage discloses that an invitation will include present content data comprising "the television channel and the frame number of the television program presently being viewed at the sender client device." Reto, col. 17, ll. 20-22. (The second passage of Reto, from column 22, features almost identical disclosure). Reto also discloses that "[t]he server 5 will receive the present content data at other times too in order to prepare the buddy lists to show the correct on-line status of the buddies." *Id.*, col. 17, ll. 22-25.

Reto does not, however, even suggest that a program ID might be associated with each IM message, rather than part of the information sent with an invitation to join a chat, let alone that such a program ID might be stored at any server (whether an IM server or, as recited by claim 1, a survey server).

The Office Action correctly concedes that Reto does not teach the concept of a survey server. Further, the Office Action correctly notes that Reto also fails to disclose, as recited by claim 1, generating reports on the tracked programming activity that include data from aggregated IM content. The Office Action asserts, however, that Kraft supplies the missing disclosure. While Kraft does disclose a survey server, Kraft does not disclose either (1) storing any sort of program ID associated with each instant message or (2) generating any sort of reports on tracked programming activity, let alone the type of reports recited by claim 1.

Regarding storage of a program ID associated with each instant message, the Office Action contends that Kraft discloses the storage of data collected by an IM server. Office Action at 6. While this may be true, Kraft does not disclose storage of anything approaching a program

ID associated with each IM. To the extent that the Office Action relies on Reto as collecting this information and Kraft as storing it, that reliance is misplaced, because, as noted above, Reto does not collect a program ID associated with each IM. Accordingly, even when combined, Reto and Kraft cannot be interpreted as teaching this element.

With respect to generating reports on tracked programming activity, Kraft does disclose the concept of reports on surveys and chat activity. These reports, however, have nothing to do with programming activity (a concept that is absent altogether from Kraft). While Reto might disclose the concept of tracking programming activity, Reto does not mention reports (as the Office Action correctly concedes). So even the combination of Reto and Kraft does not teach or suggest the type of reports recited by claim 1, and the Office Action has identified nothing in either reference, or in the art generally, that might provide the logical leap required to combine Reto and Kraft in such a way that the combination might disclose generating a report on programming activity.

For at least these reasons, claim 1 is allowable over the combination of Reto and Kraft. Claims 3, 4, 13, 14, 17, and 18 all ultimately depend from claim 1 and are allowable at least by virtue of that dependence.

Claims 9, 10, 12, 21, and 22

Claims 9, 10, 12, 21, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reto and Kraft, in view of various combinations of Tang and Bogard. These rejections are respectfully traversed as well. All of these claims ultimately depend from claim 1, which is allowable over the combination of Reto and Kraft for at least the reasons discussed above. The Office Action relies on Tang as disclosing a selectable telephone communications display element and related activity, as well as a communication interface, and it relies on Bogard as teaching a telephone device separate from a display system and a VDSL service. Hence, neither Tang nor Bogard remedy the failings of the Reto/Kraft combination, and claim 1 therefore would be allowable over any combination of Reto, Kraft, Tang, and/or Bogard. Claims 9, 10, 12, 21, and 22, therefore are allowable at least because they depend from an allowable base claim.

Conclusion

Applicant believes that the pending claims are in condition for allowance. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This paper constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

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